

LEGISLATURE OF NEBRASKA
NINETY-SIXTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 736

Introduced by Brown, 6

Read first time January 20, 1999

Committee: Health and Human Services

A BILL

1 FOR AN ACT relating to human genetics; to amend sections 13-607,
2 43-1414, 71-2620, 71-6810, and 81-2010, Reissue Revised
3 Statutes of Nebraska, and sections 29-4105, 71-6816, and
4 81-2010.03, Revised Statutes Supplement, 1998; to require
5 certification for certain laboratories and counselors; to
6 harmonize provisions; to provide operative dates; and to
7 repeal the original sections.

8 Be it enacted by the people of the State of Nebraska,

1 Section 1. All laboratories performing human genetic
2 testing for a fee shall be certified by the College of American
3 Pathologists--American College of Medical Genetics Molecular
4 Pathology Program.

5 Sec. 2. Individuals providing clinical diagnostic and
6 genetic counseling services shall have appropriate state licensure
7 or be certified by the American Board of Medical Genetics or the
8 American Board of Genetic Counselors.

9 Sec. 3. All forensic DNA laboratories performing work on
10 behalf of the state or a political subdivision shall be certified
11 by the American Society of Crime Lab Directors.

12 Sec. 4. Section 13-607, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 13-607. (1) The full out-of-pocket cost or expense that
15 may be charged to a sexual assault victim in connection with a
16 forensic medical examination shall be paid for by the law
17 enforcement agency of a political subdivision if such law
18 enforcement agency is the primary investigating law enforcement
19 agency investigating the reported sexual assault.

20 (2) All forensic DNA tests shall be performed by a
21 laboratory which is certified by the American Society of Crime Lab
22 Directors.

23 Sec. 5. Section 29-4105, Revised Statutes Supplement,
24 1998, is amended to read:

25 29-4105. (1) The Nebraska State Patrol shall prescribe
26 procedures to be used in the collection, submission,
27 identification, analysis, storage, and disposition of DNA samples
28 and DNA records under the DNA Detection of Sexual and Violent

1 Offenders Act. These procedures shall include quality assurance
2 guidelines for laboratories which submit DNA records to the State
3 DNA Data Base and shall require that all laboratories be certified
4 by the American Society of Crime Lab Directors. The State DNA Data
5 Base shall be compatible with the procedures specified by the
6 Federal Bureau of Investigation, including the use of comparable
7 test procedures, laboratory equipment, supplies, and computer
8 software. The DNA records shall be securely stored in the State
9 DNA Data Base and retained in a manner consistent with the
10 procedures established by the Federal Bureau of Investigation.

11 (2) The Nebraska State Patrol may contract with the
12 University of Nebraska Medical Center to establish the State DNA
13 Sample Bank at the medical center and for DNA typing tests. The
14 State DNA Sample Bank shall serve as the repository of DNA samples
15 collected under the act. The University of Nebraska Medical Center
16 in contracting under the act is subject to the same restrictions
17 and requirements of the act, insofar as applicable, as the Nebraska
18 State Patrol, as well as any additional restrictions imposed by the
19 patrol.

20 (3) The DNA samples and DNA records shall only be used by
21 the Nebraska State Patrol to create a separate population data base
22 comprised of DNA records obtained under the act after all personal
23 identification is removed. The patrol may share or disseminate the
24 population data base with other law enforcement agencies or
25 forensic DNA laboratories which assist the patrol with statistical
26 data bases. The population data base may be made available to and
27 searched by other agencies participating in the Combined DNA Index
28 System.

1 Sec. 6. Section 43-1414, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 43-1414. In any proceeding to establish paternity, the
4 court may, on its own motion, or shall, on a timely request of a
5 party, after notice and hearing, require the child, the mother, and
6 the alleged father to submit to genetic testing to be performed on
7 blood or any other appropriate tissue. Failure to comply with such
8 requirement for genetic testing shall constitute contempt and may
9 be dealt with in the same manner as other contempts. If genetic
10 testing is required, the court shall direct that inherited
11 characteristics be determined by appropriate testing procedures and
12 shall appoint an expert in genetic testing and qualified as an
13 examiner of genetic markers to analyze and interpret the results
14 and to report to the court. The court shall determine the number
15 of experts required.

16 In any proceeding to establish paternity, the Director of
17 Health and Human Services, county attorneys, and authorized
18 attorneys have the authority to require the child, the mother, and
19 the alleged father to submit to genetic testing to be performed on
20 blood or any other appropriate tissue. All genetic testing shall
21 be performed by a laboratory certified by the College of American
22 Pathologists--American College of Medical Genetic Molecular
23 Pathology Program.

24 For purposes of sections 43-1414 to 43-1418, an expert in
25 genetic testing means a person who has formal doctoral training or
26 postdoctoral training in human genetics.

27 Sec. 7. Section 71-2620, Reissue Revised Statutes of
28 Nebraska, is amended to read:

1 71-2620. The Department of Health and Human Services
2 Regulation and Licensure may enter into agreements, not exceeding
3 one year in duration, with any other governmental agency relative
4 to the provision of certain laboratory tests and services to the
5 agency. Such services shall be provided as stipulated in the
6 agreement and for such fee, either lump sum or by the item, as is
7 mutually agreed upon and as complies with the provisions of section
8 71-2619. All laboratories performing human genetic testing for a
9 fee shall be certified by the College of American
10 Pathologists--American College of Medical Genetics Molecular
11 Pathology Program.

12 Sec. 8. Section 71-6810, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 71-6810. Laboratory shall mean an establishment, place,
15 or location where biological, hematological, microbiological,
16 serological, chemical, immunohematological, cytological,
17 pathological, or other examinations of material derived from the
18 human body are conducted for the purpose of providing information
19 for the diagnosis, prevention, or treatment of any disease or
20 impairment of the health of humans or for the assessment of the
21 health of humans or an establishment, place, or location that
22 provides transfusion services and bloodbanking.

23 Laboratories performing human genetic testing for a fee
24 shall be certified by the College of American
25 Pathologists--American College of Medical Genetics Molecular
26 Pathology Program. Laboratories performing forensic DNA testing
27 shall be certified by the American Society of Crime Lab Directors.

28 Locations where such testing is done by oneself, by one's

1 family, or by someone acting in lieu of one's family shall not
2 constitute laboratories under the Clinical Laboratories
3 Certification Act if the tests used in such locations have been
4 determined by the director, upon the recommendation of the board,
5 to have been approved for home use.

6 Sec. 9. Section 71-6816, Revised Statutes Supplement,
7 1998, is amended to read:

8 71-6816. (1) Except as provided in section 71-6817, no
9 laboratory shall operate in this state unless the department has
10 issued a laboratory certificate to the laboratory. The laboratory
11 director of a laboratory in existence on July 1, 1991, shall submit
12 an application for a laboratory certificate within forty-five days
13 of such date. After such date, every laboratory director shall
14 apply for a certificate within forty-five days before accepting
15 specimens for testing.

16 (2) Applications for certificates or renewal thereof
17 shall be made on a form provided by the department. The forms
18 shall include the following information:

19 (a) The name of the laboratory owner;

20 (b) The name of the laboratory director;

21 (c) The location of the laboratory;

22 (d) The names and evidence of qualifications of clinical
23 laboratory practitioners employed at the laboratory;

24 (e) Copies of any certification achieved by the
25 laboratory from regional or national certification associations;

26 (f) A list of all laboratory tests performed in the
27 laboratory and, in the case of a renewal application, any changes
28 in the list of laboratory tests performed;

1 ~~(f)~~ (g) Proficiency testing services subscribed to by the
2 laboratory;

3 ~~(g)~~ (h) If the applicant is an individual, his or her
4 social security number; and

5 ~~(h)~~ (i) Such other information as the department deems
6 necessary to evaluate the scope of testing by the laboratory.

7 (3) The application shall be accompanied by the biennial
8 certification fee as provided in section 71-6831. If the applicant
9 withdraws the application or the department rejects the
10 application, the department shall return the certification fee
11 except for an administrative fee of twenty-five dollars.

12 (4) If an applicant for an initial certificate files an
13 application for certification within ninety days prior to the
14 biennial renewal date of such a certificate, the applicant may
15 either:

16 (a) Request that the department delay the processing of
17 the application and the issuance of the certificate until the
18 biennial renewal date and pay only the fee for initial
19 certification; or

20 (b) Request that a certificate which will be valid until
21 the next subsequent renewal date be issued immediately and pay the
22 fee for initial certification and an additional fee of one-fourth
23 of the biennial fee.

24 (5) The department shall review each application and
25 approve or deny such application within forty-five days after the
26 application is filed. A laboratory in existence on July 1, 1991,
27 may continue to operate pending a decision by the department to
28 approve or deny its application.

1 (6) Certificates shall be renewed every two years and
2 shall expire on May 1 of each even-numbered year beginning in 1992.

3 (7) The department shall publish annually a list of
4 laboratories which have been issued certificates.

5 Sec. 10. Section 81-2010, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 81-2010. A criminalistics laboratory is hereby
8 established within the Nebraska State Patrol, under the direction
9 of the Superintendent of Law Enforcement and Public Safety. The
10 laboratory shall perform services necessary for the recognition and
11 proper preservation, identification and scientific analysis of
12 evidence materials pertaining to the investigation of crimes. The
13 laboratory shall be certified by the American Society of Crime Lab
14 Directors as a forensic DNA laboratory.

15 Sec. 11. Section 81-2010.03, Revised Statutes
16 Supplement, 1998, is amended to read:

17 81-2010.03. (1) The full out-of-pocket cost or expense
18 that may be charged to a sexual assault victim in connection with a
19 forensic medical examination shall be paid for by the Nebraska
20 State Patrol if the patrol is the primary investigating law
21 enforcement agency investigating the reported sexual assault.

22 (2) All forensic DNA tests shall be performed by a
23 laboratory which is certified by the American Society of Crime Lab
24 Directors.

25 Sec. 12. Sections 8 and 13 of this act become operative
26 on October 1, 1999. The other sections of this act become
27 operative on their effective date.

28 Sec. 13. Original section 71-6810, Reissue Revised

1 Statutes of Nebraska, is repealed.

2 Sec. 14. Original sections 13-607, 43-1414, 71-2620, and
3 81-2010, Reissue Revised Statutes of Nebraska, and sections
4 29-4105, 71-6816, and 81-2010.03, Revised Statutes Supplement,
5 1998, are repealed.